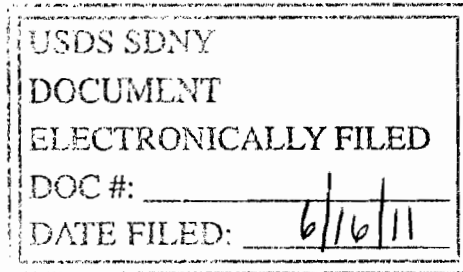# UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE
500 PEARL STREET
NEW YORK, NEW YORK 10007-1581
(212) 805-6325

CHAMBERS OF
COLLEEN McMAHON
UNITED STATES DISTRICT JUDGE

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16 June 2011

TO ALL COUNSEL IN: Inventio AG v. Otis Elevator Company (06 Civ. 5377)

FROM: Judge McMahon

RE: Conference

Counsel:

Well, there is no end to all this new patent law!

I read Therasense v. Becton while on a plane returning from a brief trip, and now I see the two Supreme Court opinions on my desk.

My first instinct is to tell you that I will need draft jury instructions from you by June 24. Also proposed findings of fact and conclusions of law on the inequitable conduct issue, as that is an issue that will be tried to the court (and I do not intend to use an advisory jury).

But there are so many developments that I also feel it necessary to have a conference sometime next week – at your convenience (though subject to mine) – and it can be by phone if you prefer, although I personally would rather see you. I still mean to use July 11 for the purposes of my ordinary final pre-trial conference – at which I rule on all objections to exhibits – and you will have decisions on the in limine motions in a few days (those decisions are brief and to the point; they are, after all, evidentiary rulings). I want to talk about the new developments in the law, and how to shape the presentation of evidence, and I would like to do that before July 11.

So if you could confer and come up with a couple of dates and times, and let my deputy Mariela de Jesus know what works for you, we will get something on the calendar. Don't get confused, however – the June 24 date is a firm date for submission of proposed jury instructions (including a proposed form of *Markman* instruction, since I will be giving that at the beginning of the case, before opening statements).

I am very much looking forward to this trial.